

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

NETWORK-1 SECURITY SOLUTIONS,  
INC., a Delaware corporation,

Plaintiff,

vs.

CISCO SYSTEMS, INC., a California corporation; CISCO-LINKSYS, L.L.C., a California Limited Liability Company; ADTRAN, INC., a Delaware corporation; ENTERASYS NETWORKS, INC., a Delaware corporation; EXTREME NETWORKS, INC., a Delaware corporation; FOUNDRY NETWORKS, INC., a Delaware corporation; NETGEAR, INC., a Delaware corporation; 3COM CORPORATION, a Delaware corporation;

Defendants.

CASE NO. 6:08cv030-LED

Jury Demanded

**Notice of Withdrawal and Modification  
of Plaintiff Network-1's motions *in limine* nos. 12, 13, 14, and 16**

Prior to filing its motions *in limine* on June 14, 2010 (dkt. # 441), Plaintiff Network-1 identified its anticipated motions to Defendants and substantively met and conferred in accordance with the Court's order of May 27, 2010 (dkt. #364). Having received and reviewed Defendants' opposition briefing, Plaintiff has reconsidered and now withdraws motions *in limine* nos. 12, 14 and 16, subject to Plaintiff's right to re-urge these motions or object to specific evidence or testimony regarding the matters addressed by the motions at trial if appropriate.

In addition, Plaintiff hereby limits the relief requested by motion *in limine* no. 13. That motion sought an order that "Defendants are precluded from offering evidence or argument

regarding prior art not discussed in the expert report of Dr. Mercer.” Dkt. #441 at 10. The intent of this motion was to preclude Defendants from arguing anticipation or obviousness (a) through witnesses other than their invalidity expert, Dr. Mercer, and (b) based on prior art references not identified and opined on by Dr. Mercer in his report. Defendants respond that they “intend to present their anticipation and obviousness arguments through Dr. Mercer and the prior art cited in his expert report.” Dkt. # 451 at 8. This indicates that Plaintiff’s motion is in principle uncontested. Accordingly, subject to its right to object at trial to any specific argument or testimony regarding prior art set forth by Defendants on any ground, Network-1 hereby modifies the relief requested by its *motion in limine* no. 13 as follows: “Defendants are precluded from presenting their anticipation and obviousness arguments based on evidence other than the testimony of Dr. Mercer regarding the prior art discussed in his expert report.”

Dated: June 23, 2010

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF,  
NETWORK-1 SECURITY SOLUTIONS,  
INC.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing document was served, via email, on counsel for Defendants this 23<sup>rd</sup> day of June, 2010.

/s/ Jeff Eichmann  
John Jeffrey Eichmann